IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2482 OF 2005

Shri Shamrao Trimbak Kulkarni ..Petitioner.

Versus

Mrs. Kamal Kisan Khatake ..Respondent.

Mr.Machhindra A. Patil for the Petitioner.

CORAM : S. A. BOBDE, J.
DATED : 09TH AUGUST, 2005.

P.C.:

. The petitioner has challenged the order dated 18th December, 2004 passed by the IVth Additional District Judge, refusing to appoint a court commissioner. The suit is filed by the petitioner /plaintiff. In the suit, he applied for temporary injunction. This application was dismissed, against the petitioner has preferred an appeal. In the appeal the petitioner applied for appointment of a court commissioner under Order 26 Rule, 9 of the CPC. According, to the petitioner the appointment of the commissioner is necessary because there is no Bandh between the property of the petitioner and the respondent and it is necessary to know the source of water from which the petitioner irrigates his field. The appellate court has found that it is not necessary to appoint the commissioner since the petitioner is

required to prove his possession over the suit property independently.

. I see no reason to interfere with the impugned order which does not suffer from any jurisdictional infirmity or otherwise. Petition is, therefore, dismissed.

9.8.05 (S.A.BOBDE,J.)

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